

**CITY OF ISSAQUAH  
DEVELOPMENT SERVICES DEPARTMENT  
ADMINISTRATIVE REVIEW**

**NOTICE OF DECISION**

**TO:** Mark Gillis and Wenxin Huang-Gillis  
4525 190<sup>th</sup> Avenue SE  
Issaquah, WA 98027

**SUBJECT:** Home Occupation: Gillis home occupation

**APPLICATION:** File No. HO13-00001

**DECISION DATE:** February 7, 2014

**REQUEST:** Application for Home Occupation requested by Mark Gillis and Wenxin Huang-Gillis that will involve customer visitation associated at the Gillis residence. The home occupation involves tutoring of children in Chinese language and culture to develop skills in the ability to speak, read, and write Mandarin Chinese.

The original request was a proposal for tutoring on Wednesdays, Saturdays and Sundays and at various times of the days. **A revised narrative received by the applicant on January 23, 2014 states that the home occupation proposes a total of 2 classes per week during the days and hours of:**

- Wednesday (one class) 1:30 p.m.
- Sunday (one class) 9:00 a.m.

**The revised narrative by the applicant goes further to state that the maximum number of attendees per class would be 5 and the average would be 3.**

**LOCATION:** The home occupation is located in a single family house at 4525 190<sup>th</sup> Avenue SE in the Meerwood neighborhood. See vicinity map, Exhibit 4.

**SUBAREA:** The property is located within the "Greenwood Point" Subarea of the City.

**DECISION MADE:** On February 7, 2014 the Development Services Department conditionally approved the Home Occupation application for the above proposal. Approval of this application is based on the submittal of November 5, 2013 and additional information received on January 15, 2014 and January 23, 2014 and is subject to the following conditions:

1. In accordance with IMC 18.07.470, the home occupation shall remain compatible with the residential character of the neighborhood. The project may be re-reviewed following this Notice of Decision including observations of site activities inconsistent with this approval and

receipt of complaints. An annual review of the home occupation may be done concurrently with the renewal of the business license (IMC 18.07.470-G). If needed, the review shall include assessments to ensure the home occupation is in compliance with the approval criteria. If the reviews indicate that the use has become detrimental to the residential neighborhood, the renewal of the business license shall be denied, or shall have conditional approval after the situation has been addressed or corrected.

2. In accordance with IMC 18.07.470-C-16 (Traffic Trips), the home occupation cannot generate more than twenty (20) vehicle traffic trips per day. A trip is considered either the arrival or the departure of a vehicle. One vehicle arriving and then leaving is considered 2 trips. The home occupation shall not exceed the allowed number of trips and shall schedule clients so as not to exceed this limit. Trips to locations within the Greenwood Point Subarea, including using a park as a collection point (i.e. parents bringing students to the park, Mr. or Mrs. Gillis or others transporting students by motor vehicle from the park to their home) will also be counted. For instance if three adults transport student(s) by car to the park, drop them, and some else transports the students from the park to the Gillis home, each trip will be counted. In this case three cars going to and coming from the park, dropping off and picking up student(s) before and after the lesson, equals 12 trips, plus four trips for transportation to and from the Gillis home carpooling the students. This would equal 16 total trips. However, if the carpool meeting spot is outside of the Greenwood Point Subarea, only the carpool vehicle will be counted to the 20 trip limit.
3. The applicant shall obtain a City of Issaquah Business License from the City of Issaquah (application currently applied for, UBI number: 602 899 434 001 0001).
4. The subject site shall remain the primary residence of the operator of the Home Occupation.
5. The home occupation, Wenxin Huang Gillis Chinese Tutoring, is approved as a Home Occupation only for Mark Gillis and Wenxin Huang-Gillis and limited to their use. The residence shall not be used by others to conduct business operations.
6. In accordance with IMC 18.07.470-C-1 (Accessory Use), the home occupation is limited to no more than 25% of the gross floor area of the residence up to 500 square feet. The home occupation shall not exceed this maximum limit.
7. The applicant shall be required to pay to the city, back Business & Occupation (B&O) taxes for the duration of the time they have been in business up to the date the home business license is issued. This is a requirement of the Issaquah Municipal Code.
8. All of the "Approval Criteria" as applicable for Home Occupations of Section 18.07.470-C listed in the Issaquah Land Use Code shall be met.

#### **REASONS FOR DECISION:**

1. The home occupation for Mark Gillis and Wenxin Huang-Gillis, for Chinese tutoring with customer visitation associated was determined to be allowed by a Level 2 Review, per the Table of Permitted Home Occupations, IMC Section 18.07.470. The requested home occupation by Mark Gillis and Wenxin Huang-Gillis is to provide tutoring of children in Chinese language and culture to develop skills in the ability to speak, read, and write Mandarin Chinese.

2. Client/customer visitation associated with any permitted home occupation is authorized to be reviewed under the Level 2 Review Permit process per Section 18.07.470-D. of the Issaquah Land Use Code (clients visiting the premises). This requires public notice of the proposal to property owners within 300 feet of the subject property.
3. The subject property is zoned "Single Family Small Lot" (SF-SL) and home occupations are allowed in all residential zoning districts. There are 18 approval criteria that need to be met in order for approval of home occupations as discussed in section 11 below. Not all of the listed approval criteria are applicable to the Gillis home occupation for home tutoring.
4. The purpose of home occupations, as listed in Section 18.07.470(A) of the Issaquah Land Use Code states: *"The conduct of business within a dwelling may be permitted in residential and commercial districts under the provisions of this section as long as the home occupation is consistent with the existing character of the surrounding neighborhood as defined by the approval criteria. Using the approval criteria, it is the intent of this section to:"*
  - a) Maintain and preserve the character of residential neighborhoods.
  - b) Insure the compatibility of home occupations with other uses permitted in the residential districts.
  - c) Promote the efficient use of public services and facilities while assuring that commercial users do not reduce the City's public services and facilities level of service to intended residential users.
  - d) Encourage flexibility in the work place and creativity in careers by permitting home occupations.
  - e) Regulate home occupations because of the potential impact to the surrounding neighborhood.
5. The Level 2 review process which is an administrative review, requires that a notice of the application be mailed to property owners within 300 feet of the project site and to provide an opportunity for public comment. A Notice of Application was mailed to the surrounding property owners on January 10, 2014. In addition, the homeowners that received the City's Notice of Application shared the notice with their neighbors. The comment period ended on January 24, 2014. The City received numerous letters, calls, and emails during the comment period as well as a petition signed by residents opposed of the home occupation. Those who provided comments are parties of record and will receive a copy of the decision.

Those who responded to the Gillis home occupation provided comments as summarized in the underlined captions below:

- Zoning:  
Comments: How is this neighborhood zoned; the property is not zoned for schools and not meant for businesses; the home occupation should be located in a commercial zone; this is not a commercial area; there is empty business spaces located in the city; neighborhoods should be kept for separate family enjoyment and business districts for businesses.
- Staff Response: Throughout the city, home occupations are an allowed accessory use to residences. The rules that allow them are intended to keep their impacts appropriate to residential areas. These rules also constrain them in such a way that they are not considered a business, such as those located in commercial or retail zones.

- Traffic:

Comments: The home occupation brings too much traffic in the neighborhood; that the traffic is disruptive, fast and reckless and there are U-turns, Saturday traffic is especially bad; traffic levels will increase and decrease safety, all vehicles that use Meerwood Park should count as a traffic trip; the time of the tutoring coincides with school buses in the neighborhood; grid lock is a concern; safety of children using the streets; concern for accidents; are traffic impacts considered; streets and sidewalks were built to accommodate families not businesses; business will open up to unnecessary traffic and influx of strangers; personal driveways are used for turnarounds; the business is already in operation and exceeds the 20 maximum trips per day and there is periodic gridlock; concern of traffic like a convenience store; new stop signs in neighborhood were added on streets.

*Staff Response:* The rules for a home occupation limit them to 20 traffic trips per day. The application by the Gillis's has been revised twice since the original submittal to better comply with the home occupation rules, especially related to traffic. As last revised on Jan. 23, 2014, the tutoring is proposed 2 days per week, with one class on each day for up to 5 attendees (Wednesday (one class) 1:30 p.m. and Sunday (one class) 9:00 a.m.. With 5 attendees on each of the days proposed, up to 20 trips could be generated which is within the level allowed. The applicant may shift the classes to other times and days provided they stay within the traffic trip threshold and all other approval criteria. Any visitation that includes an off-site location in the neighborhood such as Meerwood Park counts as a traffic trip. The Greenwood Point Subarea is a City-adopted geographic area (Figure 2 of the Comprehensive Plan) that includes all land north of I-90 between I-90 Exit 13 and approximately Sammamish State Park. This is a reasonable catchment area within which to count traffic trips. The number of actual attendees at the Gillis home occupation is not one of the 18 approval criteria, but is instead limited by the amount of traffic trips generated by the home occupation. The proposal meets that criteria and as conditioned with this Notice of Decision approval. Any illegal traffic activity on the streets such as speeding or improper parking, whether by vehicles associated with this home occupation or by other vehicles unrelated to this home occupation using public streets, may be reported to the Police Department for enforcement.

- Parking:

Comments: Parking is sparse in the cul-de-sac; Gillis frontage in front is 35 feet; cars are parking in front of other people's houses; street can't accommodate 2-way traffic with parking cars; Meerwood Park is used as a parking/staging area; neighborhood has been turned into a parking lot; greater risk of children being injured by a vehicle; do not want streets crowded with parking cars; parking should be for residents and invited guest, not clientele of a business; carpooling cannot be verified.

*Staff response:* Any available parking located on a public street is available for all drivers. Also the availability of on-street or on-site parking for a home occupation is not an adopted criterion for reviewing a home occupation. However, any illegal parking on the streets may be reported to the Police Department for enforcement.

- 300 foot radius for notification of proposal:

Comments: The 300 foot radius does not adequately inform enough property owners of the application; due to cul-de-sac design of the street layout traffic impacts are from the south, not the north; allowing 2 weeks' notice is not adequate and should be longer.

*Staff response:* The requirements for public notice are established in the Issaquah Municipal Code (IMC), including the 300 ft. radius. The notice complied with IMC requirements. In addition, the notice went further to state that recipients should share the notice with others in the neighborhood who may be interested in the project, which did occur.

- CC&R's (Covenants, Conditions, & Restrictions):

Comments: The CC&R's state that the properties in Meerwood are for residential use only; the Gillis's did not make an application to modify their home; they deceived the HOA and surrounding neighbors; can't create nuisance to the neighborhood.

*Staff Response:* The City of Issaquah does not enforce CC& R's as they are a private agreement. Rather, it is up to the Meerwood Home Owners Association to enforce them.

- House space used:

Comments: The space proposed is too small for the number of children and separate bathrooms are not provided for boys and girls; there is no handicap parking.

*Staff Response:* The tutoring is a home occupation and so does not require the structure to meet commercial construction standards. For instance, additional accessible parking is not required as would be for a standard business. Home occupations are incidental uses to the residence and thus are limited to a maximum of 25% of the floor area, up to 500 square feet. The Gillis home occupation complies with this limitation.

- Expanding of business:

Comments: Approval will lead to expanding the business; will set precedent for others to have similar businesses

*Staff Response:* As mentioned above, home occupations are allowed throughout the city in residences, and other homes in this area may already have home occupations or may wish to start them, consistent with the limitations approved by the regulations. However, a home occupation must remain consistent with the limitations placed on a home occupation.

- Property values:

Comments: Decline in property values; property values should be of high consideration.

*Staff Response:* Property values are not one of the criteria that may be used in reviewing a home occupation application. However it should be noted that There is no evidence presented that the home occupation threatens property values.

- Enforcement:

Comments: Who will be responsible for enforcing limitation and restrictions of class size and car trips, who will police home occupation.

*Staff Response:* The home occupation must remain consistent with the approved proposal as conditioned and with applicable codes. The City may choose to inspect the home occupation annually with the renewal of the business license, but typically relies on



complaints to indicate that there may be a problem with a home occupation. Complaints received will follow the typical code enforcement process. Issaquah citizens may also request that the City revise home occupations regulations.

6. The project proposal (Notice of Application) was posted on the City's web site under the Development Services Department's home page, "Active Projects List" for public notice. The decision of the Gillis Home Occupation Permit will also be posted on this web site.
7. Home Occupations are permitted to generate no more than 20 trips per day. In accordance with IMC 18.07.470 C, for the purpose of calculating trips, a vehicle arriving generates one trip, and then leaving generates a second trip for a total of two trips per drop off or pick up. The home business must be limited so as not to exceed the 20 trip limit. The revised narrative description received on January 23, 2014 states that 1 class would be held on Wednesday and 1 class would be held on Sunday and that the maximum number of attendees per class would be 5 and the average is 3. Assuming that the maximum number of attendees per class is 5 and that there would be no carpooling, then the home occupation would generate 20 trips per day with vehicles coming and leaving to drop off and pick up children before and after tutoring classes. The number of traffic trips of up to 20 on each of those days is within the allowable range for a home occupation. The original request was revised by the applicant and is no longer applicable.
8. The application is exempt by the State Environmental Policy Act (SEPA) and an Environmental Checklist was not required as the primary use is a single family residence which is exempt from SEPA review. The proposal does not change the primary use, entail modifications or additions to the existing structure, and would not result in environmental impacts.
9. The Home Occupation Permit project application was routed to City of Issaquah departments. Their comments and concerns have been addressed in this Notice of Decision.
10. Section 18.07.470(C) of the Issaquah Land Use Code states that home occupations are permitted as an accessory use to the residential use of the dwelling when all of the 18 approval criteria are met (listed 1-18). Following are the approval criteria from the Land Use Code, and then the applicant's response and the City's response in italics how the Gillis Home Occupation will meet these criteria.

Approval Criteria – IMC 18.07.470.C:

1. **Accessory Use:** The home occupation is incidental and subordinate to the primary use of the structure as a dwelling. No more than twenty-five percent (25%) of the gross floor area of the residence or accessory building (up to 500 square feet) may be used for the home occupation. A family day care center or adult family homes shall not be limited to five hundred (500) square feet within the home; however, it shall follow any size limitation designated by the State Department of Social and Health Services (DSHS).

Applicant: *"The home occupation takes place in a room with a separate entry and takes up approximately 15% of the total floor area of the house, well within the prescribed limits of 25%."*

Staff Response: *The business license application states that 350 square feet is*

allocated (which is approximately 15% of the total floor area. King County records state the house floor area of the Gillis house as 2,250 sq. ft.). The allowable space used for home occupation will not exceed the requirements stated above and as conditioned.

2. **Buffers Needed:** The following home occupations shall have enough acreage to ensure adequate buffers so that the neighborhood is not negatively impacted. Buffering shall be determined on a case-by-case basis by the Planning Director/Manager, given the proposed extent of the home occupation and the size and characteristics of the specific parcel:

- 1) Commercial Hobby Farms;
- 2) Kennels; or
- 3) Animal Breeding.

Applicant: "The home occupation is not the type of business that requires buffers."

Staff Response: Criteria not Applicable.

3. **Business License Required:** No person shall carry on a home occupation, or permit such use to occur on property which he/she owns or is in lawful control, without first obtaining a City of Issaquah Business License.

Applicant: "The home occupation has a state business license, UBI number 6028994434, and an Issaquah permit (Application transaction #20132984602)."

Staff Response: As required in the conditions above in the "Decision Made" section, Mark Gillis and Wenxin Huang-Gillis will require approval of the business license from the City of Issaquah upon completion of the Home Occupation application process. The Business license application has already been submitted to the City for review (UBI Number: 602 899 434 001 0001).

4. **Family Day Care Centers and Adult Family Homes:** Family Day Care Centers and Adult Family Homes: Family day care center and adult family home operators shall obtain all applicable licenses, registrations and permits from the State Department of Social and Health Services (DSHS). Proof of State licensing shall be required to obtain a City of Issaquah Business License.

Applicant: "The home occupation is neither a family day care center nor an adult family home."

Staff Response: Criteria not Applicable.

5. **Electrical Equipment:** The home occupation does not require the use of electrical equipment that exceeds typical standards for residential use.

Applicant: "The home occupation does not require the use of electrical equipment that exceeds typical standards for residential use."

Staff Response: The home business activity does not require the use of electrical equipment that exceeds typical standards for residential use.

6. **Employees:** The home occupation is conducted primarily by family members residing in the dwelling.

Applicant: "The home occupation is primarily by family members residing in the dwelling."

Staff Response: The home occupation is being conducted by the homeowners, Mark Gillis and Wenxin Huang-Gillis. No employees outside of the household are proposed for the home occupation.

7. **Environmental Impacts:** The home occupation shall not negatively affect any aspect of the environment.

Applicant: "The home occupation has no negative impact on the environment."

Staff Response: The home occupation will not have a negative impact on the environment. There are no interior activities that will negatively impact the environment or exterior alteration to the property as a result of the home occupation.

8. **External Alterations:** There are no external alterations proposed to the house that changes its character from a residential dwelling.

Applicant: "There are no external alterations to the home occupation building which changes its character from a residential dwelling."

Staff Response: The home occupation proposes no external alterations to the house and does not change the architectural character of the house.

9. **Fire Rating:** The home occupation does not require the use of electrical or mechanical equipment that would change the fire rating of the structure.

Applicant: "The home occupation does not require the use of electrical or mechanical equipment that would change the fire rating of the structure."

Staff Response: The home occupation will not require the use of electrical or mechanical equipment that would change the fire rating of the house. The occupation will not require the installation of additional electrical or mechanical equipment beyond the use typical of a residence.

10. **Kennels and Animal Breeding:** All kennels and animal breeding facilities that are developed after the effective date of this Code shall provide only indoor boarding facilities. If overnight boarding services are provided, the facilities must be soundproofed to minimize noise impacts to the surrounding properties.

Applicant: "The home occupation is neither a kennel nor an animal breeding facility."

Staff Response: Criteria not Applicable.

11. **Outside Storage or Display:** There is no outside storage or display of any kind related to the home occupation. Play equipment for day care operations is not considered outdoor storage or display.



Applicant: "The home occupation does not require any outside storage or display of any kind."

Staff Response: There will be no outside display or storage for this home occupation.

12. **Primary Residence:** The home occupation is conducted inside a dwelling, or inside an approved detached building to a dwelling, which is the primary residence of the principal practitioner.

Applicant: "The home occupation is conducted inside the primary residence of the principal practitioner."

Staff Response: The home occupation is being conducted inside the Gillis house. The home occupation for Mark Gillis and Wenxin Huang-Gillis is the primary residence of the applicant.

13. **Production Line Equipment Not Permitted:** Automated or production line equipment shall not be used at the home occupation site. All stock in trade that is produced on site for resale purposes must be produced by hand.

Applicant: "The home occupation does not require any production line equipment and no stock in trade is produced on-site for resale purposes."

Staff Response: Criteria not Applicable.

14. **Residential Character:** The business is conducted in a manner that will not alter the normal residential character of the premises by the use of color, materials, lighting and signs, or the emission of noise, vibration, dust, glare, heat, smoke or odors. In addition, the refuse/recycling location and container sizing for the single family home shall continue according to the residential requirements.

Applicant: "The home occupation is conducted in a manner befitting the normal residential character of the premises. There is no color, materials, lighting and signs, emissions of noise, vibration, dust, glare, hear, smoke or odors. There is no impact on the refuse/recycling location and container size for a single family house."

Staff Response: An important aspect of the review is the maintenance of the residential character of the premises. As stated above under section 11(H), the exterior of the house will not be altered in any way, including alteration of the house that would be a negative impact by colors, materials, lighting, signs, emission of noise, vibration, dust, glare, hear, smoke or odors. The refuse collection at the house is not being altered. Children will be dropped off and then picked up at the Gillis residence after their tutoring instruction. The home occupation is incidental to the primary residential use of the property.

15. **Sign/Nameplates:** A nameplate may display the name of occupant and/or the name of the home occupation. The nameplate shall be attached to the dwelling and shall not exceed two (2) square feet in area. The nameplate shall be compatible with the architectural character of the neighborhood and shall not be illuminated or backlit. Only one (1) nameplate shall be allowed. In cases where the home is not visible from the

street, the nameplate may be placed near the road on the owner's property, but not in the right-of-way.

Applicant: "The home occupation does not use signs or name plates of any kind."

Staff Response: The applicant has not proposed any name plates or signage for the home occupation.

16. **Traffic Trips:** The home occupation, by itself, shall not generate more than twenty (20) vehicular trips a day except that home day cares may have as many trips as required for the number of allowed children per the State Department of Social and Health Services (DSHS) requirements. As used here, a trip is considered either the arrival or the departure of a vehicle from the household. For example, one (1) vehicle making a delivery and then leaving immediately would be considered two (2) trips.

Applicant: "The home occupation currently does not generate more than (20) vehicular trips a day."

Staff Response: The applicant states an estimate of a maximum of five (5) customer visits on the days of Wednesday and Sundays with an average of 3 on those days. The home occupation would generate up to 20 traffic trips (10 trips arriving and then 10 trips leaving). Each attendee of the home occupation may generate up to 4 traffic trips arriving and leaving. IMC 18.07.470-C.) states the number of traffic trips generated by the home occupation cannot exceed 20 per day. Condition No. 3 requires that the home occupation be limited in order to comply with the 20 trip maximum. The 20 trips per day on Wednesdays and Sundays that are estimated are within the 20 maximum trips per day allowed for home occupations. Traffic trips on those days may be less than 20 with carpooling, parents staying at the house during the tutoring session, and if fewer than 5 attend the classes (narrative received January 23, 2014 states that the average will be 3 attendees per class).

17. **Water/Sewer Use:** The home occupation does not increase water or sewer use so that the combined total use for the dwelling and home occupation is significantly more than the average for residences in the neighborhood.

Applicant: "The home occupation does not increase water or sewer use in any significant way."

Staff Response: The home occupation will not increase the usage of water and sewer in a significant way.

18. **Additional Conditions:** In granting approval for a home occupation, the City may attach additional conditions to ensure the home occupation will not be detrimental to the character of the residential neighborhood. Any home occupation authorized under the provisions of this Code shall be open to inspection and review at all reasonable times by an authorized City Official for purposes of verifying compliance with the approval criteria and other Code provisions.

Staff Response: Additional conditions have been placed on the application. An annual review of the home occupation may also be done with the renewal of the business license.

Jerry Lind

Jerry Lind, Senior Planner

FEB. 7, 2014

Date

**EXHIBIT LIST:**

1. Home occupation application, HO13-00001, received 11/5/2013
2. Project description, received 11/5/2013; and updated on 1/15/2014; and 1/24/2014
3. Affidavit of Ownership, received 11/5/2013
4. Vicinity map
5. Business license application
6. Issaquah Municipal Code 18.07.470 Home Occupations

HO13-00001 Gillis Home Occupation, Notice of Decision, final 2-7-14

**4524 190<sup>th</sup> Avenue SE, Issaquah, WA**

